

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

WHITMAN & COMPANY, INC.,

Plaintiff,

v.

LONGVIEW PARTNERS (GUERNSEY)
LIMITED,

Defendant.

C.A. No. 1:14-cv-12047-ADB

PLAINTIFF’S MOTION TO DISMISS DEFENDANT’S COUNTERCLAIMS

Pursuant to Fed. R. Civ. P. 12(b)(6), plaintiff Whitman & Company, Inc. (“Whitman”) hereby moves to dismiss defendant Longview Partners (Guernsey) Limited’s (“Longview”) counterclaims, which allege counts for money had and received and unjust enrichment. As grounds for this Motion, Whitman states that the counterclaims fail to state a claim because they assert equitable claims where there is a written contract (the Agreement) governing the parties’ rights and obligations. Further, the counterclaims do not allege a plausible claim that the amounts paid to Whitman under the Agreement were in any way unjust, or that Whitman engaged in any actions which could make its retention of those funds unjust.

WHEREFORE, for the foregoing reasons, as well as those set forth in the accompanying Memorandum of Law, Whitman respectfully requests that this Court enter an Order:

1. Dismissing Longview’s counterclaims with prejudice; and
2. Granting such other and further relief that the Court deems just and appropriate.

Request for Oral Argument

Pursuant to Local Rule 7.1(D), Whitman believes oral argument may assist the Court and requests oral argument on this Motion.

Dated: September 4, 2015

Respectfully submitted,

/s/ Anne V. Dunne

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Counsel for Plaintiff Whitman & Company,
Inc.

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for Whitman hereby certifies that they conferred with counsel for Defendant on September 3, 2015, and that they were unable to resolve or narrow the issues raised in this Motion.

/s/ Anne V. Dunne

Anne V. Dunne

CERTIFICATE OF SERVICE

I, Anne V. Dunne, hereby certify that the above document was served upon the following counsel electronically, by ECF, on September 4, 2015:

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/s/ Anne V. Dunne

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